

H.R. _____ – The Franchisee Freedom Act of 2025

Sponsor: Rep Jan Schakowsky (IL-9), Ranking Member of the Consumer Protection and Commerce Subcommittee of the Energy and Commerce Committee. (Contact: Dhruv Kathuria, dhruv.kathuria@mail.house.gov)

A bill to provide a private right of action for persons harmed by violations of the Franchise Rule of the Federal Trade Commission. It will also protect a franchisee's right to join an association without interference or retaliation.

Key Points:

- Currently there is no private right of action allowed on FTC Franchise Rule violations. Courts have ruled, and it has been footnoted in the FTC Act, that since Congress has not given a private right of action, none can be implied. Congress must explicitly provide for it, and that is what this bill will do.
- The FTC has been historically lax and understaffed to properly investigate Franchise Rule violations. In 2022, the FTC filed its first action since 2007, against Burgerim.
- This bill will allow individuals damaged by Rule violations access to the courts, a basic American right.
- Many franchise agreements contain a clause that if a franchisee provides incorrect information (wrongful disclosure) on their application or during the buying process, the franchisor can immediately terminate the agreement and seek damages, which can include 3-5 years of liquidated damages in the form of expected royalties. The opposite is not true if the franchisor provides incorrect information (wrongful disclosure), unless you can prove fraud. This legislation balances this out.
- Franchisees signing a franchise agreement sign personal guarantees, putting all their assets at risk, including their home. Proper disclosure may have stopped franchisees from making the franchise purchase, so Rule violations can potentially financially devastate a franchise buyer.
- Many franchise buyers use SBA guaranteed loans to purchase their franchise. Having this access to the courts to seek relief in cases of Rule violations could include making the bank/SBA whole on the defaulted loans.
- According to research firm Franchise Grade, from 2010 through 2018, industry outlets grew a net 20%, yet 89% more outlets opened. In raw numbers, 353,685 new outlets opened, but 274,807 closed, for a net growth of 78,878. An estimated \$459.6 billion was invested to open those 353,685 outlets.¹
- No private right of action hampers small business' income generating role and job sustainability, given that 75% of franchisees have less than 20 workers. It also impacts the generational wealth building capacity of owners of color, given a greater number of minorities own franchises (30%) as compared to owning non-franchised businesses (18%).²
- The simple threat of litigation should create better compliance with the Franchise Rule.
- It's time that bad actors in the industry be held accountable for Rule violations, and franchise buyers have the right to be made whole. It's all about proper transparency.
- Finally, franchisees should have the basic American freedom to associate with other franchisees without interference or the fear of retaliation from their franchisor.

¹ Franchise Net Growth Tells the Truth, <https://www.franchisegrade.com/blog/net-growth-matters-most>

² FAQ: Franchising and PPP Loans, <https://www.franchise.org/faq-franchising-and-ppp-loans#:~:text=According%20to%20industry%20research%20firm,%25%20of%20non%2Dfranchised%20businesses>